

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

US TAX RECOVERY PARTNERS, LLC,

Plaintiff,

v.

SOUTHERN BAKERIES, LLC,

Defendant.

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CIVIL ACTION NO. SA-19-CV-938-XR

PLAINTIFF'S FIRST AMENDED COMPLAINT

NOW COMES Plaintiff **US Tax Recovery Partners, LLC** and files this suit against Defendant **Southern Bakeries, LLC**, respectfully showing as follows:

I.
Parties

1. Plaintiff US Tax Recovery Partners, LLC ("USTRP") is a Texas corporation with its principal office in Kerr County, Texas. Each of US Tax Recovery Partners, LLC's shareholder members is a citizen of Texas.

2. Defendant Southern Bakeries, LLC ("Southern Bakeries") is an Indiana limited liability company with its principal office in Avon, Indiana. Plaintiff's counsel has conducted a reasonable inquiry to determine the membership of the LLC defendant but found nothing of value, nor did she find any connection between the LLC defendant and Texas. Southern Bakeries may be served with process by serving its registered agent, Robert E. Inveiss, at 7111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204, or wherever else he may be found.

II.
Jurisdiction

3. The Court has jurisdiction over the lawsuit pursuant to 28 U.S.C. § 1332(a).

III.
Venue

4. Venue is proper in the Western District of Texas because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. 28 U.S.C. § 1391(b)(2).

IV.
Conditions Precedent

5. All conditions precedent have been performed or have occurred.

V.
Facts

6. USTRP is in the business of providing accounting review services for their clients with the aim to identify areas of expense that can save their clients' money.

7. On March 22, 2017, USTRP entered into a Comprehensive Services Agreement (the "Contract") with Southern Bakeries. *See* Exhibit A.

8. The Contract provided, and the Parties agreed, for USTRP to examine, review, and analyze Southern Bakeries' accounts payable records paid or payable for unauthorized charges, credits, savings, and overpayments. *See id.* The Parties also agreed that in return, Southern Bakeries would pay USTRP if it identified or obtained refunds, savings, credits, duplicate payments, or reduced current payments or liabilities ("Benefits"). *See id.* The Contract further provided that if Southern Bakeries obtained Benefits on its own by using USTRP's work product, it would make the same payment as required by the Contract.

9. On or around June 17, 2017, USTRP issued Southern Bakeries a report identifying a total of \$345,124.86 in Benefits. In accordance with the Contract, after adjustments, Southern Bakeries owed USTRP \$138,049.94. To date, Southern Bakeries has made no payment toward the amount due.

10. After multiple collection attempts with no response, on March 22, 2017, USTRP sent a demand letter to Southern Bakeries for the amount due of \$138,049.94. To date, Southern Bakeries has failed to pay the full amount due under the Contract, for which USTRP now sues.

VI.
Causes of Action

A. Breach of Contract

11. Plaintiff re-alleges and incorporates all facts alleged in the paragraphs above.
12. Plaintiff and Defendants entered into valid and enforceable contracts for the services rendered by Plaintiff.
13. Plaintiff fully performed its obligations under the Contract.
14. Defendants breached the Contract by failing to pay for the services rendered.
15. Plaintiff seeks an award of damages against Defendants for said breaches in an amount to exceed the minimum jurisdictional limits of this court.

B. Quantum Meruit (Alternative Claim)

16. Plaintiff re-alleges and incorporates all facts alleged in the paragraphs above.
17. Plaintiff provided Defendants with valuable services in accordance with the Contract. Defendants accepted the services.
18. Defendants had reasonable notice Plaintiff expected compensation for its services.
19. Because Plaintiff expected compensation, Defendants' acceptance of the services resulted in damages.
20. Plaintiff seeks an award of damages against Defendants for said damages in an amount to exceed the minimum jurisdictional limits of this court.

VII.
Attorneys' Fees

21. Plaintiff seeks an award of the attorneys' fees incurred in the prosecution of this suit pursuant to Texas Civil Practice and Remedies Code § 38.001 *et. seq.* and the underlying contract.

VIII.
Conditions Precedent

22. All conditions to Plaintiff's recovery have occurred or have been performed.

IX.
Damages

23. As a direct and proximate result of Defendant's conduct, Plaintiff suffered the actual damages and lost profits.

X.
Prayer

WHEREFORE, Plaintiff prays Defendant be cited to appear herein, and upon trial, the Court render judgment for the following:

- a) Damages in an amount to exceed the minimum jurisdictional limits of this court;
- b) Attorneys' fees, costs, and expenses;
- d) Post-judgment and pre-judgment interest at the highest rate allowed by law;
- e) Appellate attorneys' fees, costs, and expenses; and
- e) All other and further relief, in law or in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

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